

# DECLARATION OF EMERGENCY

## Department of Health and Hospitals Office of Public Health

Protection of Water Supply  
(LAC 51:XII.344 and 346)

The state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), pursuant to the rulemaking authority granted by R.S. 40:4(A)(8) and (13), hereby adopts the following emergency rule to prevent an imminent peril to the public health and safety. This rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

As required by Act 836 of the 2014 Regular Legislative Session, Part XIV (Louisiana State Plumbing Code) of the Louisiana State Sanitary Code [LAC 51 (Public Health Sanitary Code)] became null and void on January 1, 2016. In accordance with the Act, the Louisiana State Uniform Construction Code Council (LSUCCC) promulgated new State plumbing regulations through an emergency rule under the State Uniform Construction Code (LAC 17:I). Before January 1, 2016, comprehensive backflow protection/cross connection control regulations designed to protect public health applicable to plumbing were contained in Part XIV (Plumbing) of the State Sanitary Code. Effective January 1, 2016, some of these same backflow protection/cross connection control regulations applicable to plumbing have been adopted by the LSUCCC under the State Uniform Construction Code, particularly within the 2012 International Plumbing Code and within the 2012 International Residential Code (see December 20, 2015 Louisiana Register, Volume 41, page 2545).

Public water supplies continue to be responsible for protecting their water systems from backflow and cross connections which may occur on customer premises and which can cause contamination of the water supply. This Emergency Rule amends Part XII (Water Supplies) of Title 51 (Public Health Sanitary Code) in order to direct public water systems to utilize the backflow and cross connection control regulations contained in the State Uniform Construction Code in order to reasonably ensure the protection of their water system from contamination caused by backflow. Currently, §344.A of Part XII is outdated because it directs water suppliers to Part XIV of the State Sanitary Code relative to protecting its system from backflow and cross connections on customer premises. As mentioned above, plumbing regulations formerly contained under Part XIV of the State Sanitary Code have been repealed effective January 1, 2016.

In addition, the LSUCCC did not adopt regulations under the State Uniform Construction Code relative to the qualifications of persons installing, repairing, testing and maintaining backflow prevention devices and methods. In as much as no comprehensive regulation exists covering the qualifications of all such persons involved in the installation, repair, testing and maintenance of backflow prevention devices and methods, the rule proposes to adopt a regulation under LAC 51:XII which is nearly identical to the qualification regulations formerly contained in Part XIV of the Louisiana State Sanitary Code.

For these reasons, the state health officer declares that an emergency currently exists to ensure the continued

protection of public health and finds it necessary to promulgate an Emergency Rule effective February 23, 2016. This Emergency Rule definitively directs water suppliers to seek applicable cross connection control regulations adopted within the State Uniform Construction Code when implementing their cross connection control program for their water system. The Emergency Rule also implements regulations in an attempt to ensure that all persons involved in the installation, repair, testing and maintenance of backflow prevention devices are qualified to perform such work. The agency intends to initiate regular rulemaking for this rule and publish the rule's Notice of Intent on April 20, 2016.

### Title 51

## PUBLIC HEALTH—SANITARY CODE

### Part XII. Water Supplies

#### Chapter 3. Water Quality Standards

#### §344. Protection of Water Supply/Containment Practices

A. As used in this Section, *mandatory containment practices* means the containment practices prescribed in and required by the State Uniform Construction Code (LAC 17:I), including maintenance and testing requirements, and any additional or related requirements of this Part.

B. In order to protect its water supply from potential contamination, each water supplier shall develop and implement a written backflow prevention plan outlining the policies and procedures it will use to verify that its customers comply with mandatory containment practices, and shall make a reasonable effort to ensure that only customers who comply with mandatory containment practices connect or remain connected to its water supply.

C. Unless otherwise directed by the state health officer, a water supplier shall disconnect or refuse to connect customers who:

1. fail to comply with mandatory containment practices; or
2. fail to provide or allow adequate confirmation of such compliance.

D. If a water supplier has a reasonable basis to believe that an unprotected or improperly protected cross connection exists on the premise of any customer not required to comply with mandatory containment practices, the water supplier shall take reasonable steps to perform one or more of the following:

1. confirm that the cross connection on the premise is eliminated or does not exist;
2. confirm that approved fixture isolation backflow protection is installed at the cross connection on the premise in accordance with the fixture isolation practices prescribed in and required by the State Uniform Construction Code (LAC 17:I);
3. confirm that approved containment backflow protection is installed; or
4. discontinue water service to the customer.

E. When deemed necessary to protect public health, the state health officer may issue an Administrative Order or Emergency Order requiring a water supplier to comply with this Section.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2795 (November 2012), amended LR 42:

**§346. Installer, Repairer, Tester and Maintainer  
Qualifications for Backflow Prevention Devices  
and Methods**

A. Installer/Repairer/Maintainer Qualifications. Backflow preventers shall be installed, repaired and/or maintained by a State Plumbing Board of Louisiana (SPBLA)-licensed plumber who holds a SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq. and its implementing regulations (LAC 46:LV.101 et seq.). Backflow preventers associated with a landscape irrigation system may be installed, repaired and/or maintained by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds a SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808.P. Backflow preventers located on public property or otherwise under the complete control of the water supplier (for example, water meter and the piping upstream of the water meter, if provided), may be installed, repaired and/or maintained by a Backflow Prevention Assembly Repairer who meets the ASSE 5130-2009 (backflow prevention assembly repairer professional qualification standard) or other individuals holding a backflow prevention assembly repairer certificate from a nationally recognized backflow certification organization approved by the state health officer.

B. Field Tester Qualifications. Backflow preventers shall be tested by a State Plumbing Board of Louisiana (SPBLA)-licensed plumber who holds a SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq. and its implementing regulations (LAC 46:LV.101 et seq.); or, by a Backflow Prevention Assembly Tester who meets ASSE 5110-2009 (Backflow Prevention Assembly Tester Professional Qualification Standard), or other individuals holding a testing certificate from a nationally recognized backflow certification organization approved by the state health officer. Backflow preventers associated with a landscape irrigation system may be tested by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds a SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808.P.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:

**Public Comments**

Interested persons may submit written comments to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. She is responsible for responding to inquiries regarding this Emergency Rule.

Jimmy Guidry, M.D.  
State Health Officer  
and  
Rebekah E. Gee, MD, MPH  
Secretary, DHH